

CEDA Regional Planning Commission
Regular Meeting – 2 p.m.
Thursday, October 5, 2006

Administration Building
of the former Springview Center
3130 East Main Street
Springfield, OH 45505

AGENDA

- | | | |
|--|---|------------------------------------|
| 1. Minutes – August 3, 2006 (Regular) | | <i>Discussion &
Action</i> |
| 2. Zoning
Amendment
06-ZA-8 | City of Springfield
RM-44 Specialty School | <i>Discussion &
Action</i> |
| 3. Zoning
Amendment
06-ZA-9 | City of Springfield
Cell Tower Ordinance | <i>Discussion &
Action</i> |
| 4. Rezoning Case
06-Z-16 | Bechtel Avenue Properties LLC
City of Springfield ~ 38.25 acres
West of S. Bird Rd. at the South End of Tuttle Rd.
A-1 (Township) to RM-12 with OPD-H Overlay District (City) | <i>Discussion &
Action</i> |
| 5. Staff Comments | Subdivision Regulation Text Amendments
Minor Subdivisions: <ul style="list-style-type: none">▪ Title 3 Procedures▪ Title 2 Definitions | <i>Discussion</i> |
| 6. Adjournment | | <i>Action</i> |

Minutes

Central CEDA Regional Planning Commission

Regular Meeting ~ 2 p.m.
Thursday, August 3, 2006

Administration Building of the former Springview Center
3130 East Main Street
Springfield, OH 45505

Mr. Max Cordle, Chairperson of the Central CEDA Regional Planning Commission of Clark County Ohio, called the meeting to order at 2:00 p.m.

Present: Mr. Max Cordle, Mr. Gene Barnett, Mr. Michael Hanlon, and Mr Michael Spradlin.

Absent: Mr. Dan Kelly, Mrs. Kim Marshall, and Ms. Sally Riley.

RPC: 8-26-2006: Minutes ~ June 8, 2006 (Regular Meeting)

Motion by Mr. Barnett, seconded by Mr. Hanlon, to approve the minutes as presented.

VOTE: Motion carried unanimously.

06-ZA-7 Zoning Amendments ~ M-1 General Manufacturing District ~ City of Springfield

Heather Whitmore, Planning and Zoning Administrator for the City of Springfield, presented the staff report on the proposed zoning amendments. This zoning text amendment will create a PD-Planned Development zoning category. Presently, the City of Springfield does not have a Planned Development zoning type. The CC-2a zoning type is for commercial planned development. The OPDH is an overlay housing plan development zoning type. Neither one of these two planned development zoning types permit a substantial deviation from the zoning code and a substantial deviation from the subdivision regulations in a way that allows for a comprehensive conceptual master plan development. There are a number of projects coming forward such as the Hope VI Lincoln Park project. It will let us do creative planned developments under unified control downtown.

RPC: 8-27-2006: 06-ZA-7 Zoning Amendments ~ M-1 General Manufacturing District Zoning Amendment ~ City of Springfield

Motion by Mr. Hanlon, seconded by Mr. Spradlin, to recommend Approval to the Springfield City Commission for the City Zoning Code text amendments concerning M-1 General Manufacturing District Zoning Amendment.

VOTE: Motion carried unanimously.

Staff and Board Comments:

The shooting range amendment was denied. It will need to go through the full process again.

There might be a PD submitted for next month's meeting.

Mr. Barnett announced that the Tecumseh Land Trust of Clark and Green Counties has surpassed 10,000 acres under easement for farmland, woods, and waterways. The goal is 50,000 acres per county (100,000 acres total).

Adjournment

RPC: 8-28-2006: Adjournment

Motion by Mr. Hanlon, seconded by Mr. Spradlin, to adjourn the meeting.

VOTE: Motion carried unanimously.

The meeting was adjourned at 2:17 p.m.

Mr. Max Cordle, Chairperson

Mr. Shane Farnsworth, Secretary

NOTE FOR MINUTE BOOK: See additional information included following the minutes.

CITY OF SPRINGFIELD DEPARTMENT OF ENGINEERING AND PLANNING

PLANNING DIVISION

TO: CEDA
FROM: HEATHER WHITMORE, PLANNING AND ZONING ADMINISTRATOR
SUBJECT: RM-44 SPECIALTY SCHOOL
DATE: SEPTEMBER 12, 2006

Staff has been asked if we would consider adding school, specialty private instruction (ie. tutoring, dance, anything that is not general instruction) to RM-44 as a conditional use, High Density Multi-family.

RM-44, as in all R-districts, allows school, general private instruction (ie. private k-12 general education). The C-districts allow school, specialty private instruction. Staff supports allowing specialty and general private instruction as a conditional use in high-density multi-family zoned areas.

CHAPTER 1114
RM-44 High Density Multi-Family Residence District

1114.01 Purpose.	1114.05 Accessory uses permitted.
1114.02 Principal uses permitted.	1114.06 General provisions.
1114.03 Provisional uses permitted.	1114.07 Special provisions.
1114.04 Conditional uses permitted.	

1114.01 PURPOSE.

The purpose of this district is to establish areas for the development of high density high-rise and low-rise multi-family dwellings and group living quarters. Additionally, it is intended that this district be located near an arterial street for proper access. Due to the different types of uses permitted within the district, careful attention to site design and development is expected to assure that all uses are mutually compatible.

1114.02 PRINCIPAL USES PERMITTED.

A lot or building may be occupied by the following principal uses:

- (a) Day-care home, type B.
- (b) Dwelling, low-rise multi-family.

1114.03 PROVISIONAL USES PERMITTED.

A lot or building may be occupied by the following provisional uses:

- (a) Fraternity/sorority house, provided the minimum lot area shall be 330 square feet times the maximum permitted occupant load.
 - (b) Nursing home, subject to the requirements of Chapter 1135.
 - (c) Religious institution, subject to the requirements of Chapter 1135.
 - (d) Rooming house, provided the minimum lot area per rooming unit shall be 1000 square feet.
 - (e) Family home, subject to the dimensional requirements of the RS-8 district.
 - (f) Adult Group Home, subject to the dimensional requirements of the RS-8 district.
- (Ord. 04-71. Passed 3-9-04.)

1114.04 CONDITIONAL USES PERMITTED.

A lot or building may be occupied by the following conditional uses:

- (a) Adult group home, provided the minimum lot area shall be at least 300 square feet for each resident.
- (b) Bed and breakfast establishment when operated by the resident who also is the owner.
- (c) Dwelling, high-rise multi-family, subject to the requirements of Subsection 1151.01(b) and provided that the lot shall have frontage upon an arterial street identified on the Land Use Plan map.
- (d) Club, subject to the requirements of Chapter 1135.
- (e) Day-care center.
- (f) Day-care home, type A.
- (g) Emergency housing, provided the minimum lot area shall be 300 square feet for each permanent resident and 200 square feet times the maximum permitted occupant load for guests.
- (h) Group home, provided the minimum lot area shall be at least 300 square feet each resident.
- (i) Halfway house, provided a maximum of eight (8) parolees shall reside on the premises.
- (j) Public utility or public use, subject to the requirements of Chapter 1135.
- (k) Retail and service establishments listed as permitted uses in the CN-1 district, provided they are located on the ground level or below in a high-rise multi-family dwelling.
- (l) School, generalized and specialty private instruction.

1114.05 ACCESSORY USES PERMITTED.

The accessory uses as regulated in the RM-12 district shall be permitted.

(Ord. 02-177. Passed 4-16-02.)

1114.06 GENERAL PROVISIONS.

All principal and accessory uses and structures permitted within this district shall be subject to the requirements of Title Four and Title Five and to the supplemental requirements of Title Six, where applicable.

1114.07 SPECIAL PROVISIONS.

Development with two or more principal uses or buildings on a lot larger than two (2) acres or with a multifamily dwelling or dwellings of more than 24 units regardless of the size of the lot shall be subject to the Special Provisions of Subsection 1108.07(b).

CITY OF SPRINGFIELD DEPARTMENT OF ENGINEERING AND PLANNING

PLANNING DIVISION

TO: CEDA
FROM: HEATHER WHITMORE, PLANNING AND ZONING ADMINISTRATOR
SUBJECT: CELL TOWER ORDINANCE
DATE: SEPTEMBER 12, 2006

The attached proposed telecommunications ordinance will repeal section 1135.05-1135.14 of Title Three of the Codified Ordinances. The proposed text will create the new Chapter 1136 of Title Three.

The proposed text will be scheduled for the following public meetings:

CEDA: October 5, 2006
City Planning Board: October 9, 2006
City Commission: November 14, 2006
City Commission: December 5, 2006

September 12, 2006_ draft

Wireless Communication Facilities

1136.01 Purpose and Objectives

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the City's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this chapter, the City hereby adopts an overall policy with respect to a conditional use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- (a) Implementing an application process for person(s) seeking a conditional use permit for wireless telecommunications facilities;
- (b) Establishing a policy for examining an application for and issuing a conditional use permit for wireless telecommunications facilities that is both fair and consistent;
- (c) Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers;
- (d) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities.
- (e) Making available to residents an appropriate level of wireless communication services while employing the least visually and physically intrusive means that are not technologically or commercially impracticable under the facts and circumstances.

.02 Definitions

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

- (a) "Wireless Telecommunication Accessory Facility or Structure" means an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
- (b) "Commercial Impracticability" or "Commercially Impracticable" means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable."
- (c) "Completed Application" means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.
- (d) "FAA" means the Federal Aviation Administration, or its duly designated and authorized successor agency.
- (e) "FCC" means the Federal Communications Commission, or its duly designated and authorized successor agency.
- (f) "Height" means, when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.
- (g) "NIER" means non-ionizing electromagnetic radiation.
- (h) Propagation study means a report showing the transmission characteristics of the proposed Wireless Telecommunications Facility which includes such information as the City shall require.
- (i) "Personal Wireless Facility" means a "Wireless Telecommunications Facility" used in the provision of "Personal Wireless Services."
- (j) "Personal Wireless Services" or "PWS" or "Personal Telecommunications Service" or "PCS" shall have the same meaning as defined and used in the 1996 Telecommunications Act.
- (k) "Telecommunication Site." See definition for "Wireless Telecommunications Facilities."

- (l) "Conditional Use Permit" means the official document or permit by which an applicant is allowed to construct and use wireless telecommunications facilities as granted or issued by the City.
- (m) "State" means the State of Ohio.
- (n) "Stealth" or "Stealth Technology" means to employ methods to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities by using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- (o) "Telecommunications" means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- (p) "Telecommunications Structure" means a structure used in the provision of services described in the definition of "Wireless Telecommunications Facilities."
- (q) "Wireless Telecommunications Facility" includes a "Telecommunications Structure", "Telecommunications Site" and "Personal Wireless Facility" and means a structure, facility or location designed, or intended to be used as, or used to support antennas or other devices for transmitting or receiving wireless signals. A "Wireless Telecommunications Facility" includes, without limit, antennas and towers of all types and kinds and structures, whether installed on or in existing structures such as a multi-story building, church steeple, silo, water tower, sign or other structures, or constructed free standing, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC. "Wireless Communication Facility" does not include structures used exclusively for the City's fire or police or exclusively for private, noncommercial radio and television reception, private citizen's bands, amateur radio and other similar noncommercial telecommunications where the height of the facility is below the height limits set forth in this chapter.

.03 Conditional Use Permit Required

- (a) No wireless telecommunications facility shall be constructed within the City unless and until a conditional use permit shall have been issued authorizing such construction unless the City Manager or designee has issued a written determination that the proposed Wireless

Telecommunications Facility has no appreciable impact under subsection (c) below.

- (b) Any wireless communication facility lawfully constructed within the City prior to the adoption of this ordinance, is a non-conforming use, unless and until a conditional use permit shall have been issued with respect to such wireless communication facility.
- (c) If the City Manager determines, based on a written request, that due to the size, location and similar characteristics of the proposed facility the proposed facility will have no appreciable visual or other impact upon the neighborhood in which it is to be located, the City Manager may issue a written determination to that effect. Such a determination shall not be made with respect to a proposed new tower.
- (d) A conditional Use Permit shall not be required for location of a Wireless Telecommunication facility in the City's rights of way. Such facilities must conform to the City's ordinances rules and procedures governing the rights of way.

.04 Applications for Conditional Use Permit.

- (a) Applications for a conditional use permit shall be submitted to the Department of Engineering and Planning on such forms as the City Manager shall prescribe.
- (b) An application for a conditional use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the City, any false or misleading statement in the application may result in denial of the application without further consideration or opportunity for correction.
- (c) Applications not meeting the requirements stated herein or that are otherwise incomplete may be rejected by the City.

.05 General Contents of Application

All applications for a conditional use permit with respect to a wireless communication facility shall contain the following:

- (a) Conditional Use Application (section 1172.05)
- (b) Co-location of a wireless telecommunications facility on existing structure

- (1) Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
 - (2) A plot plan shall indicate all building and land uses within two hundred (200) feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
 - (3) The location of the nearest residential structure;
 - (4) The location, size and height of all proposed and existing antennae and all appurtenant structures;
 - (5) The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users. The applicant shall list the location of every tower, building, or structure within a reasonable proximity that could support the proposed antenna;
 - (6) A description of the proposed antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - (7) A "Zone of Visibility Map" which shall be provided in order to determine locations from which the antenna may be seen;
 - (8) Pictorial representations of "before" and "after" views from key viewpoints both inside and outside of the City, as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key sites at a pre-application meeting, if requested by the applicant.
- (c) Telecommunications Structures: In addition to the general contents for co-location set forth in subsection (b) above, an applicant for a new telecommunication structure shall also submit,
- (1) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
 - (2) A comprehensive report inventorying existing towers and other suitable structures within 4 miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable;

- (3) The make, model and manufacturer of the tower and antenna(s);
- (4) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- (5) Proof of the availability of the insurance required under Section 1136.13 and the removal bond required under Section 1136.15.
- (d) If applicant petitions recognition of no appreciable impact under Section 1136.03(c), then please submit a statement of no appreciable impact directed to City Manager.
- (e) Technical Certification data according to Section .06 below.
- (f) Statement of demonstration of necessity according to conditions set forth in Section 1136.07 below.

.06 Technical Certifications

All applications for a conditional use permit with respect to a wireless communication facility shall contain, the following, each certified by an engineer or other professional licensed as appropriate to that item:

- (a) A topographic and geomorphologic study and analysis taking into account the subsurface and substrata, and the proposed drainage plan, assuring the stability of the proposed wireless telecommunications facilities on the proposed site.
- (b) The frequency, modulation and class of service of radio or other transmitting equipment;
- (c) The actual intended transmission and the maximum effective radiated power of the antenna(s);
- (d) The direction of maximum lobes and associated radiation of the antenna(s);
- (e) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;
- (f) Certification that the proposed antenna(s) will not cause interference with other telecommunications devices;
- (g) A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;

.07 Required Demonstrations

The application shall contain demonstrations that the granting of the application will further the objectives stated in Section 1136.01 above. Such demonstrations shall include:

- (a) A demonstration the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such demonstration shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
- (b) In the case of a new tower, a demonstration that the proposed facility has been sited and designed so as to employ the least visually and physically intrusive means that are not commercially impracticable under the facts and circumstances. Such report must include evidence that fair and thorough consideration was given to the following:
 - (1) Sharing an existing tower or other facility with another provider,
 - (2) Locating the facility atop or within an existing structure,
 - (3) Locating the facility upon publicly owned land,
 - (4) Making any new tower accessible to co-location of additional antennas of other providers,
 - (5) Locating the facility so as to minimize the impact upon the following types of Zoning Districts in the following order:
 - (A) Historical Districts,
 - (B) Single Family Residential Districts,
 - (C) Multi-Family Residential Districts,
 - (D) Commercial Districts,
 - (E) Manufacturing and Industrial Districts,
 - (6) Minimizing the height of towers and other structures,
 - (7) Employing camouflage or other stealth technology.
- (c) A demonstration of the ability of any proposed new tower to accommodate future demand for at least five additional commercial applications, such as future co-locations, without causing interference. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

- (1) The foreseeable number of FCC licenses available for the area;
 - (2) The kind of wireless telecommunications facilities site and structure proposed.
- (d) Agreements between providers limiting or prohibiting co-location shall not be accepted as a valid basis for a claim of commercial impracticability or hardship. An assertion that the proposed site is the only site under option or lease shall not be accepted as a valid basis for a claim of commercial impracticability or hardship.

.08 Review of Application

- (a) The City Manager shall designate such persons as the City Manager deems appropriate to review, analyze, and evaluate applications and supporting materials. The City Manager may, at his discretion, delegate or designate other official agencies of the City or consultants employed by the City to accept, review, analyze, evaluate and make recommendations with respect to granting or not granting, recertifying or not recertifying or revoking conditional use permits for wireless telecommunications facilities.
- (b) If after review of the "Zone of Visibility Map" submitted under Section .05 (k) above, the City determines that the proposed facility is likely to have adverse visual or aesthetic impact, the City may require the applicant to perform a balloon test at the applicant's expense, described as follows:
- (1) The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a 3-foot in diameter brightly colored balloon at the maximum height of the proposed new tower.
 - (2) The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant 7 and 14 days in advance of the first test date in a newspaper with a general circulation in the City.
 - (3) The applicant shall inform the City, in writing, of the dates and times of the test, at least 14 days in advance.
 - (4) The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.

.09 Standards for Facilities

A conditional use permit for a wireless communication facility will be granted only when the facility complies with the following standards:

- (a) The base and all related facilities and structures of the proposed wireless telecommunications facilities will be effectively screened from view.
- (b) All utilities at the site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
- (c) Access roads, turn-around space and parking have been provided to assure adequate emergency and service access.
- (d) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
- (e) Road construction shall minimize ground disturbance and the cutting of vegetation.
- (f) Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- (g) Any new tower to be constructed on the site shall be no higher than necessary, and in no case, higher than one hundred ninety feet (190) above existing grade.
- (h) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- (i) Towers shall be galvanized and painted with a rust-preventive paint of a noncontrasting gray or similar color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this chapter.
- (j) All wireless telecommunications facilities and antennas shall , fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:
 - (1) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
 - (2) Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

- (k) Wireless telecommunications facilities shall contain a sign no larger than 4 square feet located near the base of the tower in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s), as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.
- (l) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from any residential property line a minimum of a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 50% of the height of the tower or structure.
- (m) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from any nonresidential property line a minimum of a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 25% of the height of the tower or structure.

.10 Permit to be Granted

A conditional use permit with respect to a wireless telecommunications facility shall be granted when:

- (a) The City reasonably determines that granting the application will serve the objectives set forth in Section 1136.01 above;
- (b) The City reasonably determines that the applicant has clearly and convincingly demonstrated the matters required by Section 1136.07 above, and.
- (c) The application shows compliance with the standards set forth in Section 1136.09 above.
- (d) The application demonstrates compliance with other applicable provisions of the Zoning Code.

.11 Effect of Granting Permit

A permit granted under Section 1136.10 above shall entitle the holder to construct a wireless telecommunication facility upon the issuance of a building permit obtained from the Chief Building Official, and to operate the facility for a

period of five (5) years from the date of issuance, subject to compliance with the provisions of Section 1136.12 below.

.12 Continuing Obligations of Holder of Permit

The holder of a permit granted under Section 1136.10 above shall:

- (a) Maintain the facility in continuous operation. "Continuous operation" means that the facility has not been inactive for a period in excess of sixty (60) consecutive calendar days, unless such inactivity has been caused by an Act of God, or force majeure, and repair or reconstruction has commenced within such sixty (60) day period;
- (b) Operate and maintain the facility in accordance with the terms of the application, and any applicable license issued by the FCC;
- (c) Maintain in full force and effect the liability and other insurance required under the terms of Section 1136.13;
- (d) Negotiate in good faith for the shared use of any tower by other wireless service providers in the future, and shall:
 - (1) Respond within 60 days to a request for information from a potential shared-use applicant;
 - (2) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (e) Failure to abide by the conditions outlined above may be grounds for revocation of the conditional use permit for the facility.

.13 Required Insurance

- (a) A holder of a conditional use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the conditional use permit in amounts as set forth below:
 - (1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence; \$2,000,000 aggregate;

- (b) The Commercial General Liability insurance policy shall specifically include the City and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.
- (c) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
- (d) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days prior written notice in advance of the cancellation of the insurance.
- (e) Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- (f) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days after the granting of the conditional use permit, the holder of the conditional use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

.14 Fees and Deposit

- (a) At the time that a person submits an application for a conditional use permit for a new tower, such person shall pay a non-refundable application fee of \$5,000.00 to the City. If the application is for a conditional use permit for co-locating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required, the non-refundable fee shall be \$2,000.00.
- (b) No application fee is required in order to rectify a conditional use permit for wireless telecommunications facilities, unless there has been a visible modification of the wireless telecommunications facility since the date of the issuance of the existing conditional use permit for which the conditions of the conditional use permit have not previously been modified. In the case of any modification, the fees provided in division (a) shall apply.
- (c) In addition to the non-refundable application fee set forth in subsection (a) above, as required, an applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the City in connection with the review of any application, including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the City shall precede the pre-application meeting. The City will maintain a separate escrow

account for all such funds. The City's consultants/experts shall invoice the City for services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the City, replenish the escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

.15 Removal of Facility

The City may require that a telecommunication facility be removed upon the occurrence of any of the following events:

- (a) The facility was not constructed in accordance with any applicable permit,
- (b) The facility has deteriorated from lack of maintenance or other cause so that it has become a danger to public safety,
- (c) More than ninety days have elapsed since the expiration of the facility's conditional use permit and no application for renewal is pending,
- (d) The facility has been inactive for a period of at least ninety (90) consecutive calendar days,
- (e) The holder of the conditional use permit has not fulfilled the holder's continuing obligations under Section 1136.12 above.

.16 Assurance of Removal

- (a) In order to assure the prompt removal of a wireless communication facility when required by the City in accordance with Section .15 above, the City shall require the holder of a conditional use permit to maintain in full force and effect a removal bond. A removal bond shall:
 - (1) Be written by a surety company authorized to do business in the State;
 - (2) Be in an amount sufficient to pay the cost of removal of the facility, and not less than \$75,000;
 - (3) Provide that upon written notice from the City Manager to the surety company and the holder that the City has caused the

removal of the facility, the surety shall pay to the order of the City the City's cost of removal of the facility, up to and including the maximum amount of the bond.

- (b) In the event that the bond required under subsection (a) above is unavailable or insufficient to pay the City's cost of removal, the City may issue an assessment in the amount of its removal costs against the parcel or parcels of real estate upon which the facility was located, in accordance with law.

STAFF REPORT

TO: CEDA

DATE: October 5, 2006

PREPARED BY: Heather Whitmore

SUBJECT: Rezoning Case #06-Z-16

GENERAL INFORMATION:

Applicant: Jim Peifer, Attorney at Law, agent, for Bechtle Avenue Properties Limited Liability Company

Requested Action: Rezoning from Springfield R-1, to City RM-12 OPD-H, Low Density Multi-Family Planned Development Housing Overlay District.

Purpose: Construction of Master Planned Condominium Development

Location: Tuttle road, behind Super Wal-mart on E National Rd

Size: 38.25 acres.

Existing Land Use and Zoning: Vacant land zoned Township R-1.

Surrounding Land Use and Zoning: North: Wal-mart Super Center; Zoned CC2A
East: Single-family dwellings; Zoning Township R-1
South: Vacant; Zoning Township R-1
West: Single-family dwellings; Zoning Township R-1

Applicable Regulations: Chapter 1174: Amendments
Chapter 1111: RM-12
Chapter 1129: OPD-H

File Date: September 5, 2006

BACKGROUND:

The applicant requests an RM-12 OPDH zoning to permit the construction of a 150 unit condominium development. The property was annexed into the City in October 2001. The applicant rezoned the adjoining 33 acres to north to CC-2A in February 2003. At the January 2003 meeting, the City Planning Board discussed the subject property of this rezoning and recommended that the area be zoned RS-5, RS-8, or RM-12 OPD-H (see attached discussion).

The proposed development will include 150 units to be developed in two phases. Phase one includes (64) units, consisting of (40) stand-alone dwellings and (8) three-unit dwellings. Phase two will include (86) stand-alone units. A traffic-blocking device, such as a bollard or gate, will divide the two phases. A bollard is thick, low post, usually of iron, steel, or concrete, mounted in the ground, which blocks vehicle access. This bollard will prevent through traffic from access the Wal-mart development from Bird Road, and visa versus from Wal-mart traffic exiting on to Bird Road.

ANALYSIS:

The proposed development plan is appropriate for a number of reasons: 1) it conforms to the City Planning Board's 2003 recommendation, 2) it will create a gradual step down in density and intensity between the CC-2A Wal-mart development and existing single-family residential to the east, west, and south, and 3) it will be designed to provide extensive buffering from all adjoining residential and commercial property.

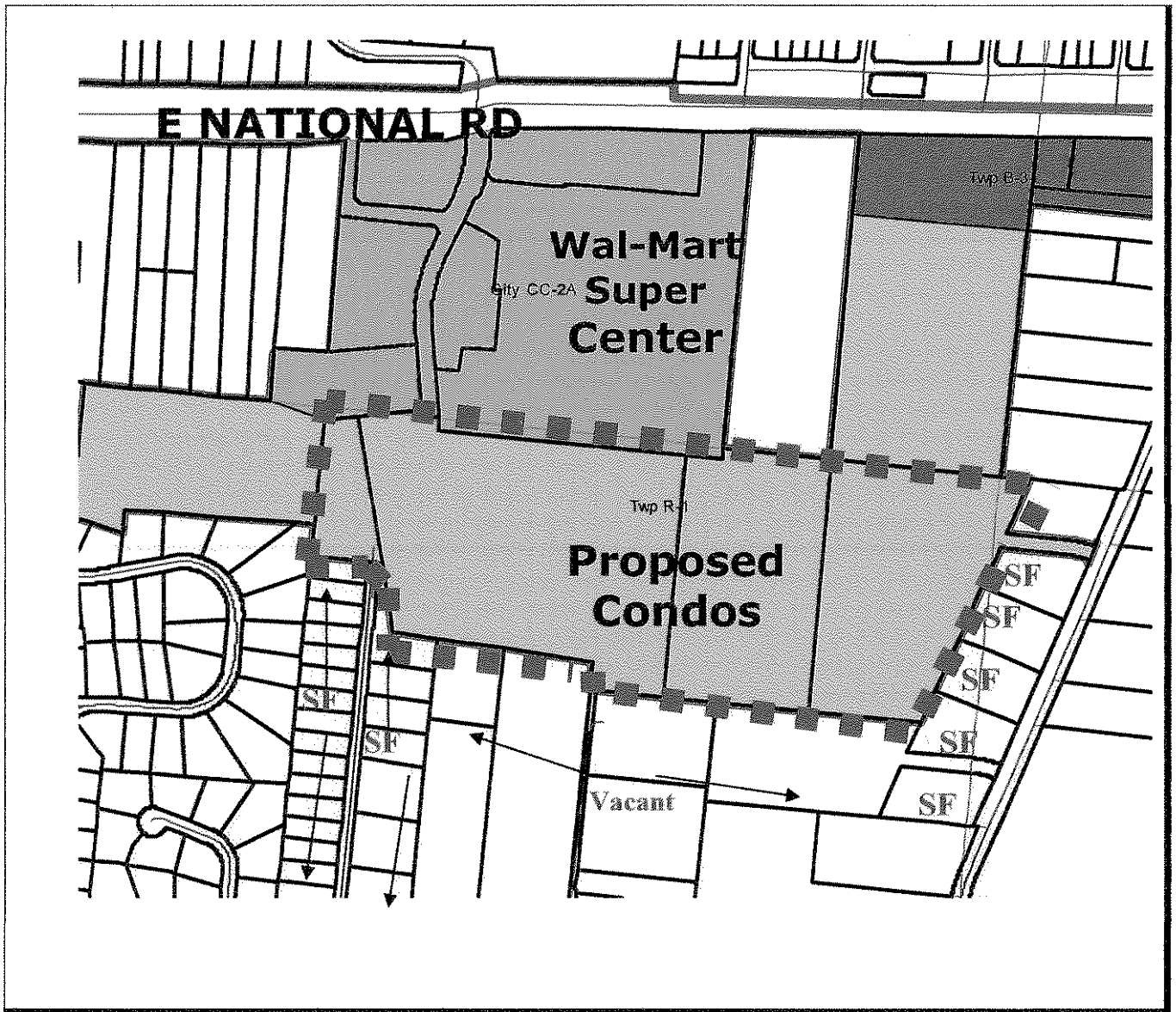
STAFF RECOMMENDATION:

Staff recommends approval of the proposed rezoning and development plan with the following conditions:

1. Identify bollard/gate on development plan. Staff suggests signage stating "not a through street" for gate is posted on other end of development.
2. Show landscape buffer around development parameter, with average height and species. Staff suggests a minimum 10' buffer, with more in locations where existing buffer is in excess of 10.'
3. Show lighting plan or notation, code chapter: Lighting (1161(f)) requires a maximum of .35 foot-candles at r-district line.
4. Show evidence of acquisition of drainage easement across Thompson property.
5. Add notation that at least one parking space per unit (of the two required parking spaces per unit) will be provided in an enclosed garage.
6. Applicant shall conduct a traffic study to determine if improvements (ie. Left turn lane, or deceleration lane) to Bird Road are necessary. If such study determines that improvements are required, such improvements must be funded by developer and must be included in phase two construction plans. Approval of phase two construction plans will be subject to compliance with findings of a traffic study for Bird Road.

ATTACHMENTS:

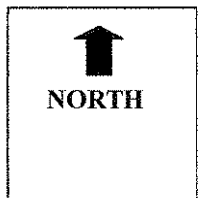
1. Vicinity and zoning map
2. Petition with attachments
3. January 13, 2003 resolution of City Planning Board, "east Highway 40, West of Bird Road)

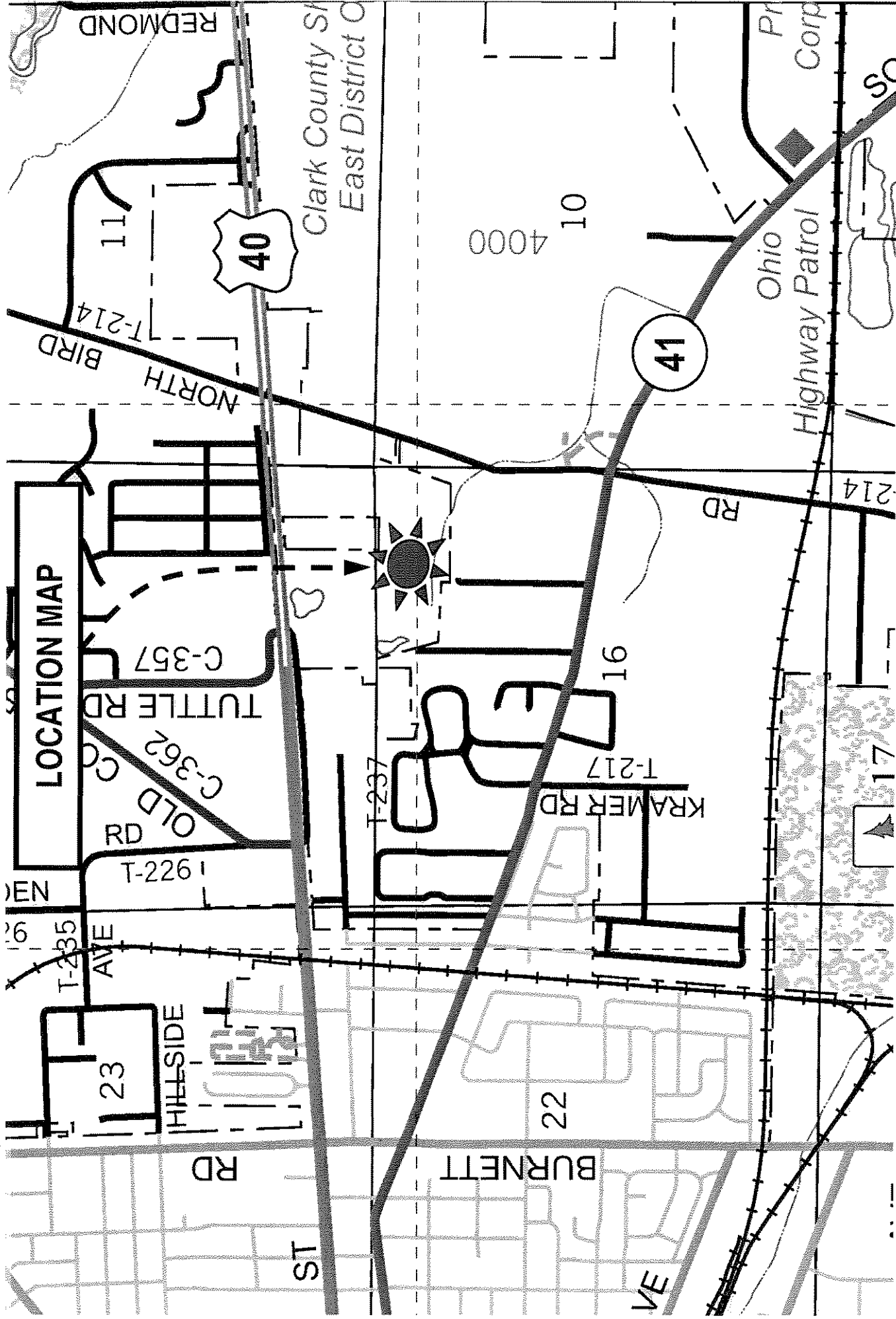


Rezoning Case #6-Z-16

Request for a change in zoning for 38.25 acres located immediately south of the Wal-mart Super Center on Tuttle Road from Township R-1 to City RM-12 OPD-H, Low Density Multi-Family Planned Development Housing Overlay District

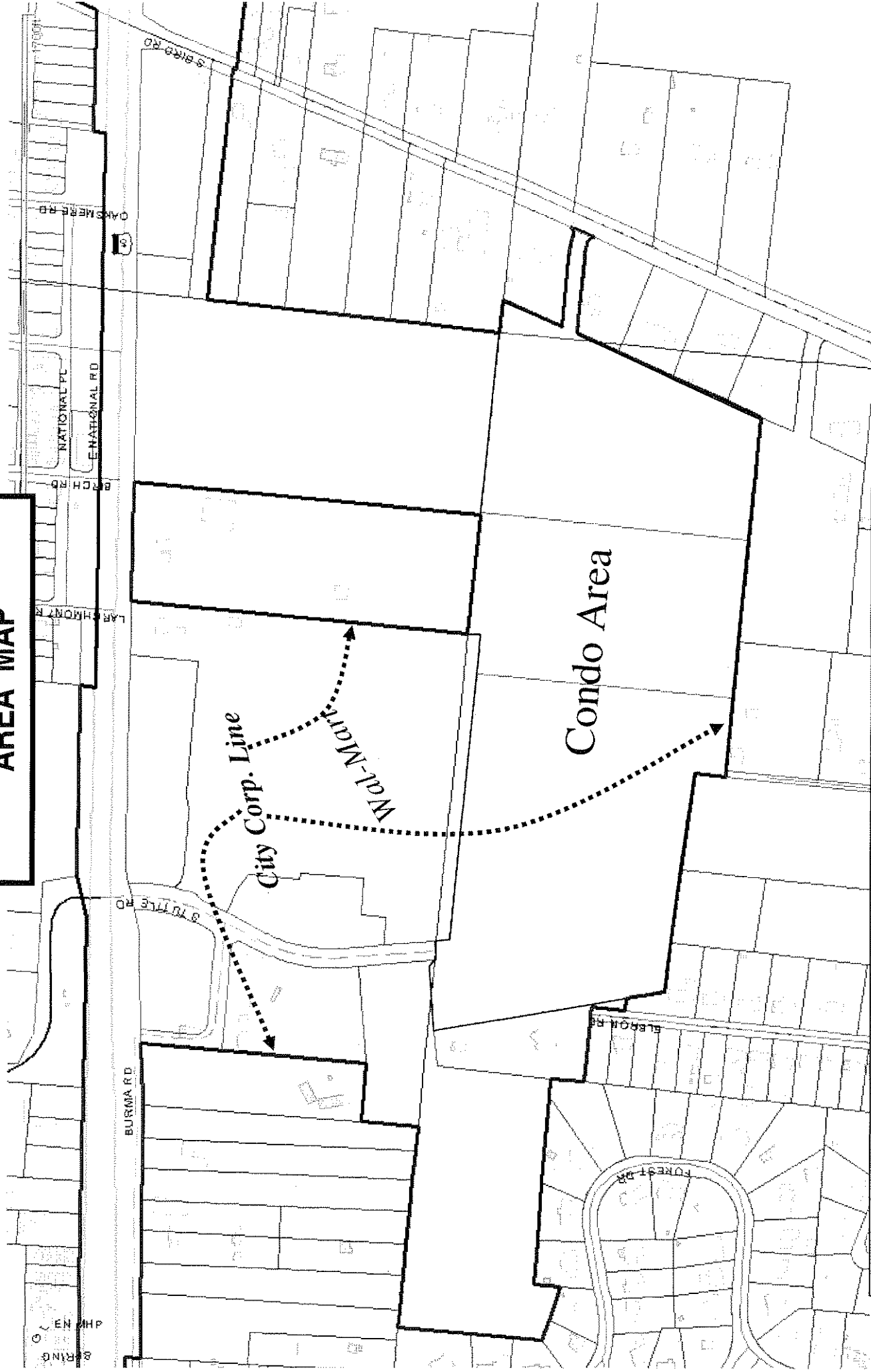
September 2006





REZONING CASE #Z-06-16 **38.25 ac.** **City of Springfield**
from A (Spfld. Twp.) to RM-12 with OPD-H overlay (City)

AREA MAP



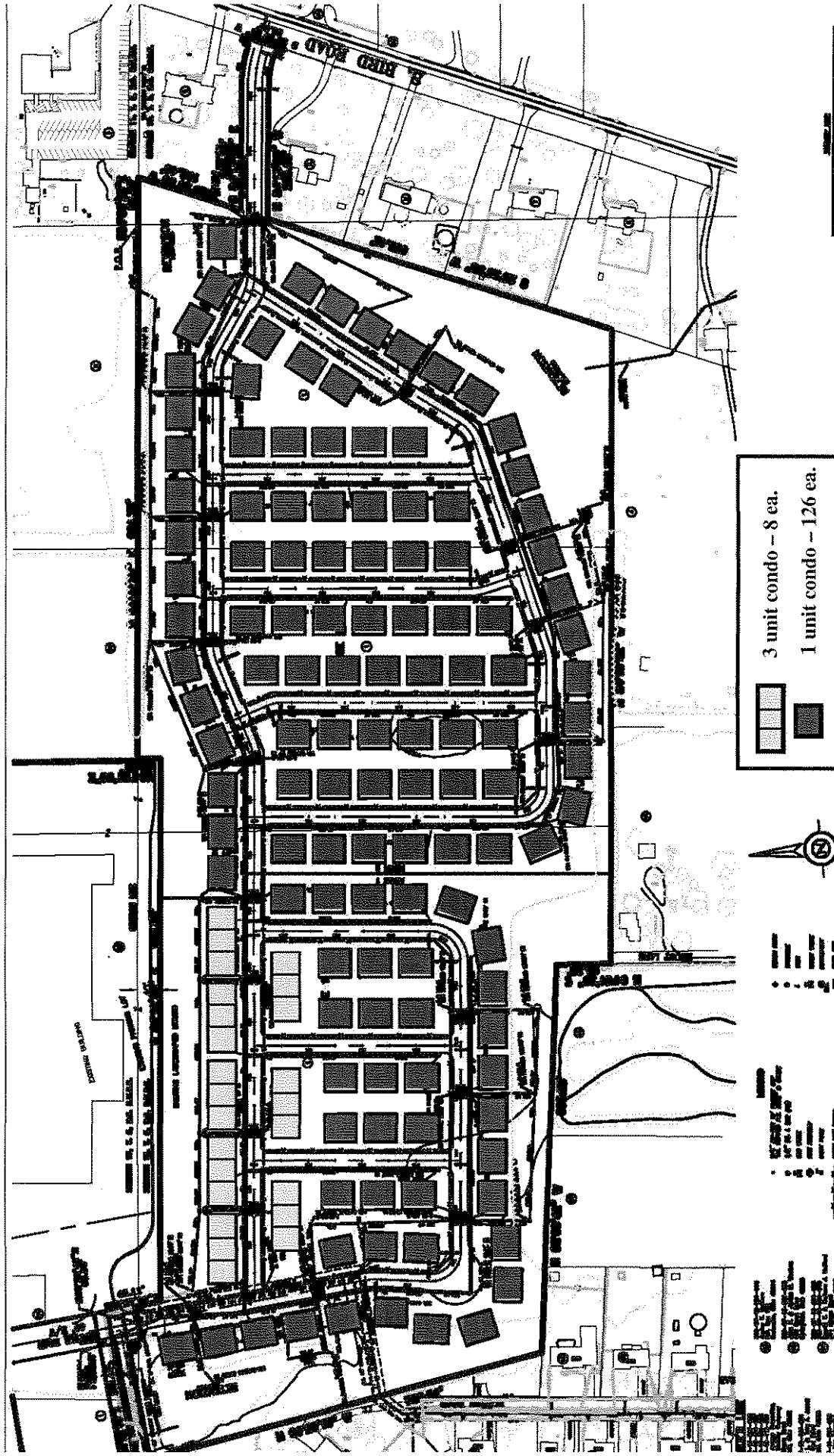
REZONING CASE #Z-06-16

38.25 ac.

City of Springfield

from A (Spfld. Twp.) to RM-12 with OPD-H overlay (City)

CONDO DEVELOPMENT



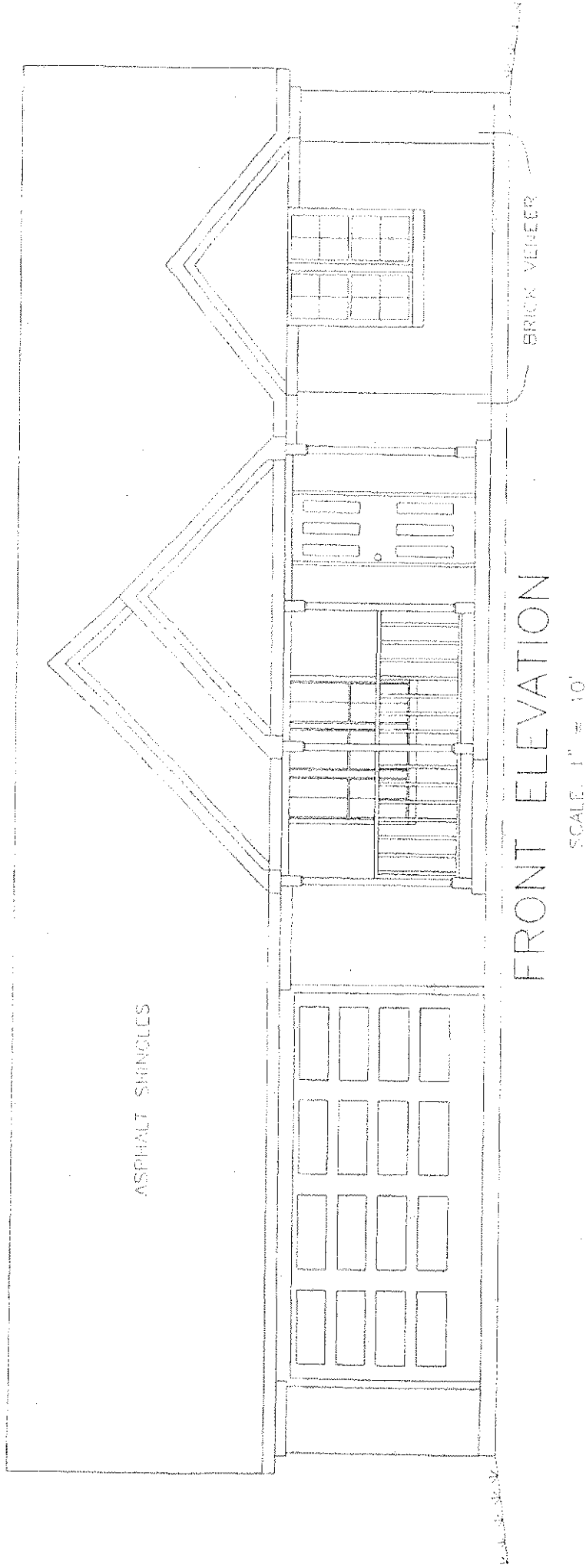
REZONING CASE #Z-06-16

38.25 ac.

City of Springfield

from A (Spfld. Twp.) to RM-12 with OPD-H overlay (City)

SINGLE UNIT CONDO



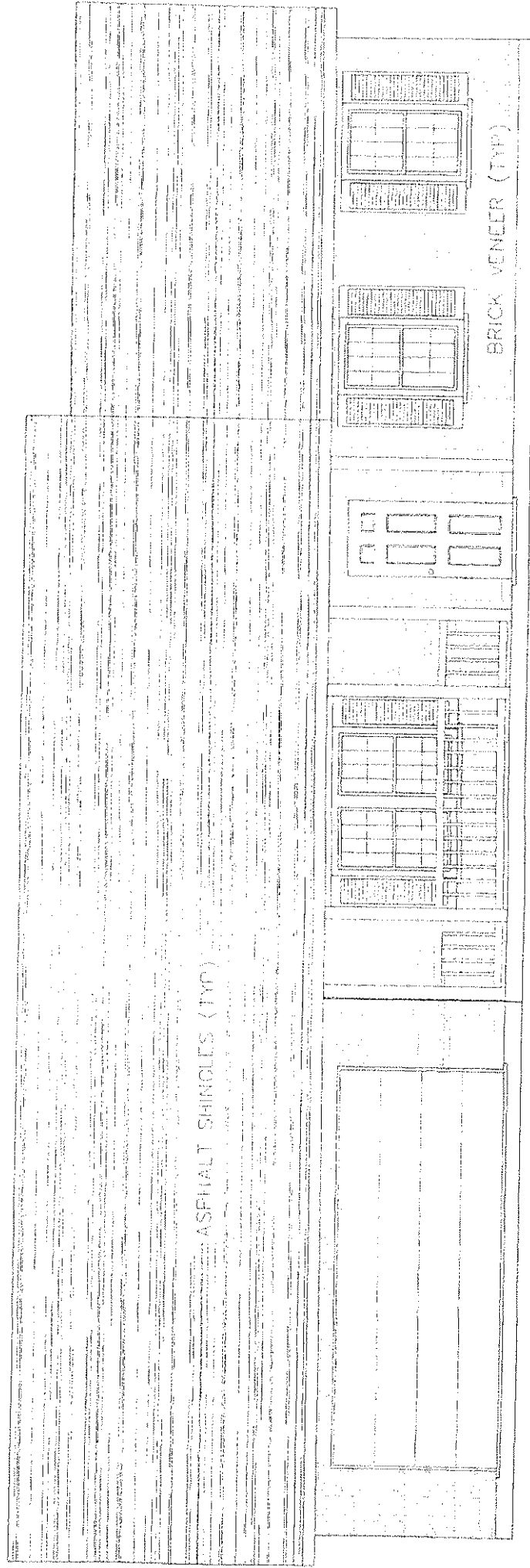
REZONING CASE #Z-06-16

38.25 ac.

City of Springfield

from A (Spfld. Twp.) to RM-12 with OPD-H overlay (City)

SINGLE UNIT CONDO



FRONT ELEVATION

SCALE: 1" = 10'

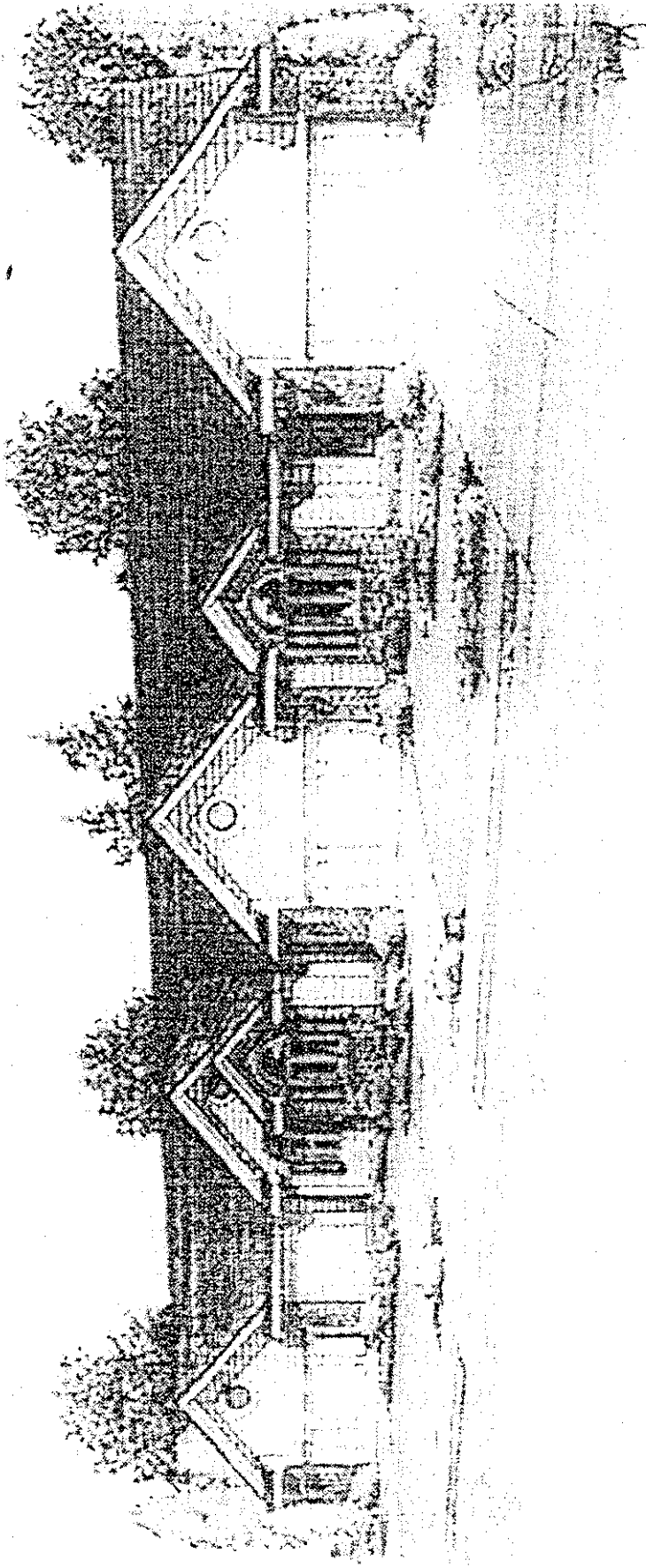
REZONING CASE #Z-06-16

38.25 ac.

City of Springfield

from A (Spfld. Twp.) to RM-12 with OPD-H overlay (City)

THREE-UNIT CONDO

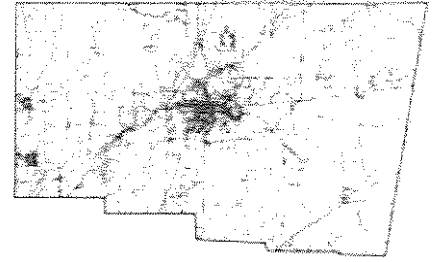


REZONING CASE #Z-06-16

38.25 ac.

City of Springfield
from A (Spfld. Twp.) to RM-12 with OPD-H overlay (City)

CLARK
CLARK COUNTY
CLARK COUNTY PLANNING
CLARK COUNTY PLANNING COMMISSION
25 WEST PLEASANT STREET, SPRINGFIELD, OHIO 45506-2268
PHONE 937.328.2498 FAX 937.328.2621
WWW.CLARKCOUNTYOHIO.GOV



CHAIRPERSON
MAX CORDLE

PLANNING DIRECTOR
SHANE W. FARNSWORTH

September 27, 2006

TO: Clark County Planning Commission
Central CEDA Regional Planning Commission

FROM: County Planning Staff

SUBJECT: Text Amendments - Clark County Subdivision Regulations

Minor subdivisions - or as they are referred to lotsplits - are permitted provided they meet the requirements of the Clark County Subdivision Regulations. The number of lotsplits out of the original tract is limited to four parcels. We have used October 1972 as our point of reference for defining "original tract" in our Subdivision Regulations which was assumed permissible as interpreted under the Ohio Revised Code. A recent change to ORC now specifically grants that authority to a County Planning Commission. We think that by making this amendment we'll be on firm ground under the new law and will eliminate any ambiguity.

In accordance with 711.10 of the ORC, we sent a "Notice of Public Hearing" relative to amendments to the Township Trustees and will publish a notice in the newspaper.

A Public Hearing has been scheduled for November 1, 2006 before the Clark County Planning Commission and November 2, 2006 before the Central CEDA Regional Planning Commission. Enclosed with this letter is a sheet showing the existing and proposed text noted above as well as a copy of the "Notice of Public Hearing".

See the attached for the proposed language. No action is necessary at this time. This is only an informational item.

PROPOSED TEXT AMENDMENTS TO THE CLARK COUNTY SUBDIVISION REGULATIONS

Existing Text - Clark County Subdivision Regulations

TITLE 3 PROCEDURES CHAPTER 3/6 MINOR SUBDIVISIONS

Section 3.61 Basic Requirements

A proposed division of a parcel of land shown as a unit on the tax roll (duplicate) as of October 30, 1972, may be submitted to the Planning Commission Staff for approval without a plat if the proposed division of a parcel of land and the remainder meets all of the following conditions:

Proposed Text - Clark County Subdivision Regulations

TITLE 3 PROCEDURES CHAPTER 3.6 MINOR SUBDIVISIONS

Section 3.61 Basic Requirements

A proposed division of a parcel of land **DEFINED AS THE ORIGINAL TRACT, WHICH IS A TAX PARCEL LISTED ON THE CLARK COUNTY AUDITOR'S RECORDS ON JANUARY 1, 2007**, may be submitted to the Planning Commission Staff for approval without a plat if the proposed division of a parcel of land and the remainder meets all of the following conditions:

Existing Text - Clark County Subdivision Regulations

TITLE 2 DEFINITIONS

Minor Subdivision:

A division of a parcel of land that does not require a plat to be approved by the Planning Commission according to Section 711.131, Ohio Revised Code. A division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving no more than five lots after the original tract has been completely subdivided. Also known as a Lotsplit.

Proposed Text - Clark County Subdivision Regulations

TITLE 2 DEFINITIONS

Minor Subdivision:

A division of a parcel of land that does not require a plat to be approved by the Planning Commission according to Section 711.131, Ohio Revised Code. A division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving no more than five lots after the original tract, **WHICH IS DEFINED AS A TAX PARCEL LISTED ON THE CLARK COUNTY AUDITOR'S RECORDS ON JANUARY 1, 2007**, has been completely subdivided. Also known as a Lotsplit.